

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ZACHARY R. GRAHAM,	)	
	)	
Plaintiff,	)	Civil Action No. 21-449
	)	
v.	)	District Judge Arthur J. Schwab
	)	Magistrate Judge Maureen P. Kelly
PENNSYLVANIA DEPARTMENT OF	)	
TRANSPORTATION;	)	Re: <a href="#">ECF No. 15</a>
PENNSYLVANIA DEPARTMENT OF	)	
CORRECTIONS;	)	
YASSMIN GRAMIN, <i>in his official capacity</i> ;	)	
and PATRICK HOMER, <i>in his official</i>	)	
<i>capacity</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff Zachary R. Graham (“Plaintiff”) is a state prisoner currently incarcerated at the State Correctional Institution at Greene (“SCI-Greene”) in Waynesburg, Pennsylvania. Plaintiff initiated this matter by submitting a Motion and Declaration in Support of Motion to Proceed *in Forma Pauperis* (“IFP”) and Complaint, which were received by this Court on April 8, 2021. [ECF No. 1](#). In response to a deficiency order issued on April 12, 2021, [ECF No. 2](#), Plaintiff filed a second motion to proceed IFP. [ECF No. 4](#). The motion was granted on April 27, 2021, [ECF No. 7](#), and the Complaint was filed on the same date, [ECF No. 8](#).

This matter was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrates Act, [28 U.S.C. § 636\(b\)\(1\)](#), and Rules 72.C and 72.D of the Local Rules for Magistrate Judges. On May 13, 2021, the Magistrate Judge issued a Report and Recommendation in which she recommended dismissal of all of claims asserted in the Complaint except for the Fourteenth Amendment Equal Protection claim raised against Defendant Yassmin Gramin in her official capacity. [ECF No. 15](#). A copy of the Report was mailed to Plaintiff’s

address of record. Plaintiff timely responded with Objections to the Report on May 24, 2021. [ECF No. 16](#).

The bases for Plaintiff's objections are largely addressed in the magistrate judge's report. However, in the interest of thoroughness, the undersigned will address one of Plaintiff's arguments. Specifically, Plaintiff asserts that under [Ex Parte Young](#), 209 U.S. 123, her<sup>1</sup> claims against Defendant Department of Transportation should be allowed to proceed. ECF No. 16 ¶ 17. This demonstrates a misunderstanding of [Ex Parte Young](#), which does not abrogate the Eleventh Amendment immunity of state governments or state agencies, but instead permits suits for prospective injunctive relief against *state officials* acting in violation of federal law. [See id. at 155-56](#); [see also Pennsylvania Fed'n of Sportsmen's Clubs, Inc., v. Hess](#), 297 F.3d 310, 323 (3d Cir. 2002) (same, emphasis added). Because Defendant "Gramin" presumably refers to Yassmin Gramian, the current Pennsylvania Secretary of Transportation, she appears to be the state official who should be named with respect to Plaintiff's Fourteenth Amendment claim.<sup>2</sup>

Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, [ECF No. 15](#), and the Objections thereto, [ECF No. 16](#), the following ORDER is entered:

AND NOW, this 23rd day of June, 2021,

IT IS HEREBY ORDERED that the following claims in the Complaint, [ECF No. 8](#), are DISMISSED, with prejudice:

- All claims against Defendants Pennsylvania Department of Corrections and

---

<sup>1</sup> Plaintiff has requested to be referred to using feminine pronouns and appellations. [ECF No. 10](#). This Court shall do so. ECF Nos. 14 and 15.

<sup>2</sup> This should not be construed as a comment on the merits underlying Plaintiff's Fourteenth Amendment claim. Once served, Defendant Gramin is free to respond to the Complaint in any manner allowed by the Federal Rules of Civil Procedure and the Local Civil Rules of this Court.

Pennsylvania Department of Transportation;

- All claims against Defendant Patrick Homer; and
- All claims arising under the Eighth Amendment, the Americans with Disabilities Act, and the Rehabilitation Act.

Plaintiff's Fourteenth Amendment Equal Protection claim against Defendant Yassmin Gramian in her official capacity shall not be screened at this time.

IT IS FURTHER ORDERED that Plaintiff's Objections, [ECF No. 16](#), are OVERRULED and DISMISSED.

IT IS FURTHER ORDERED that the magistrate judge's Report and Recommendation, [ECF No. 15](#), as it is supplemented by this order, is adopted as the opinion of this Court.

s/ Arthur J. Schwab  
United States District Judge

cc: Zachary R. Graham  
NP-2097  
SCI Greene  
175 Progress Drive  
Waynesburg, PA 15370